

Noel Canning Affirmed; Unanimous Supreme Court Invalidates President Obama's NLRB Recess Appointments

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A unanimous Supreme Court today struck down President Obama's 2013 recess appointments that gave rise to a dispute of Constitutional proportions. The unanimous Court ruled that the President does not have the authority to make appointments when the Senate is in a brief recess of a few days or even as many as 10 days such as the pro forma sessions the Senate has taken to holding in order to thwart Presidential recess appointments. The Court split 5-4 on more far-reaching issues of whether the President can fill vacancies on a recess basis if those vacancies arise while the Senate is in session and whether the recess appointment power applies only to intersession recesses. The D.C. Circuit had more severely limited Presidential power. Four Justices, Roberts, Scalia, Thomas and Alito, would have held that Presidential authority is more limited. For a more complete analysis of the decision, [click here for our Labor Alert](#).

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